

Agilent Ref: 10971150-2
United States Application Serial No. 10/080,641

REMARKS

In view of the above amendments and the following remarks, the Examiner is respectfully requested to withdraw the rejections and allow Claims 32-33, 36-38 and 43-52, the only claims pending and currently under examination in this application.

Claims 32, 38, 43 and 47 have been amended to all require that any detector of the system be aligned with an emission filter that filters out an interrogating light wavelength. Support for this amendment is found at page 18, line 10, among other locations, of the application. As such, no new matter has been added by the above amendments. Accordingly, the Applicants respectfully request entry of the above amendments.

Claim 38 has been rejected under 35 U.S.C. § 103(a) over Peters in view of *In re Venner*. In making this rejection, the Examiner asserts that since Peters teaches a device having multiple detectors, the claimed invention is obvious over Peters.

As amended, Claim 38 requires the presence of an emission filter. Peters fails to teach or suggest such a filter because Peters is only concerned with detecting light of the same wavelength of the interrogating light.

As such, Peters fails to teach or suggest the claimed invention. Accordingly, the rejection of Claim 38 under 35 U.S.C. § 103(a) over Peters in view of *In re Venner* may be withdrawn.

Next, Claims 32, 33, 43, 44 and 47-50 were rejected under 35 U.S.C. § 103(a) over Peters in view of Kaye and further in view of *In re Venner*. As reviewed above, Peters is deficient in failing to teach a system where any detector is aligned with an emission filter. Kaye also fails to teach or suggest system a system, since at least one detector in Kaye is for detecting light of the same wavelength as the interrogating light. Accordingly, the combined teaching of the references fails to teach or suggest the invention of these claims and this rejection may be withdrawn.

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Finally, Claims 36, 37, 45, 46, 51 and 52 were rejected under 35 U.S.C. § 103(a) over Peters in view of Kaye and Roustael, and further in view of *In re Venner*. As reviewed above, the combined teaching of Peters and Kaye is deficient in failing to teach or suggest an apparatus that includes an emission filter aligned with any detector present in the system. The Examiner has cited Roustael for teaching the scanning element. Since Roustael only teaches an image reader, e.g., for reading a bar code, Roustael fails to make up the fundamental deficiency of the primary references. Accordingly, the combined teaching of the references fails to teach or suggest the invention of these claims and this rejection may be withdrawn.

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CONCLUSION

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-1078.

Respectfully submitted,

Date: 11.23.04

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